

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

**JOVI A. FORTUNO, MICHAEL J.
LAMBERT, and HEIDI M. PARSONS,**

Plaintiffs,

v.

**YPL ENTERPRISE, LLC, *d/b/a Q Korean
Steakhouse*; and YEN PO LIU,**

Defendants.

**CIVIL ACTION FILE
No. 1:21-CV-02217-SCJ**

ORDER

This matter is before the Court on Plaintiffs' Motion to Compel Discovery. Doc. No. [23]. The Court recently granted Plaintiffs leave to conduct limited damages discovery in aid of their anticipated motion for default judgment. Doc. No. [20]. Plaintiffs state that they have served requests for production on Defendant YPL Enterprise, LLC ("YPL"), and that YPL has not timely responded. Doc. No. [23], 2. Plaintiffs also state that they noticed the deposition of Defendant Yen Po Liu for November 1, 2021, and that Liu did not respond or appear. *Id.* at

2-3. Other attempts to confer with Defendants have failed. See id. at 3. Because Plaintiffs believe they have given Defendants actual notice of discovery requests, and because Plaintiffs believe Defendants simply have chosen not to respond, Plaintiffs now move for the Court to enter an order compelling (1) YPL to respond to Plaintiffs' written discovery requests and (2) Liu to appear for a deposition. Id.

On January 20, 2022, the Court held a videoconference hearing regarding the Motion to Compel. See Doc. No. [26]. Counsel for Plaintiffs appeared and presented arguments. See id. No appearance was made by or on behalf of Defendants. See id.

After due review and consideration and for good cause shown, the Court **GRANTS** Plaintiffs' Motion to Compel Discovery (Doc. No. [23]). The Court **ORDERS** that by **no later than Tuesday, February 1, 2022**:

- (1) YPL **shall** produce to Plaintiffs' counsel all documents responsive to Plaintiffs' First Requests for Production of Documents (attached hereto as Exhibit A) to be served on Plaintiffs' counsel at the following address:

Matthew W. Herrington
DeLong Caldwell Bridgers Fitzpatrick & Benjamin, LLC
101 Marietta Street NW
Suite 2650
Atlanta, Georgia 30303

and

(2) Defendant Liu shall confer with Plaintiffs' counsel Matthew W. Herrington (email matthew.herrington@dcbflegal.com, phone 404-596-7972) to schedule Liu's deposition, to be taken at the earliest mutually convenient date thereafter.

The Court DIRECTS the Clerk to serve this Order upon Defendants by U.S. mail at Defendants' the following addresses:

YPL Enterprise, LLC
c/o Yen Po Liu, Registered Agent
7435 Ledgewood Way
Suwanee, Georgia 30024

Yen Po Liu
872 Buford Road
Cumming, GA 30041

IT IS SO ORDERED this 21st day of January, 2022.

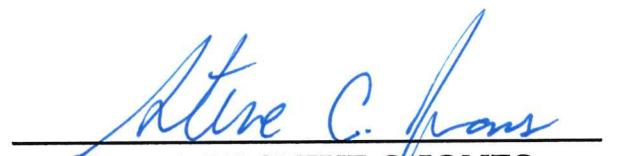

HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

**JOVI A. FORTUNO, MICHAEL J.
LAMBERT, and HEIDI M. PARSONS,**

Plaintiffs,

vs.

**YPL ENTERPRISE, LLC, d/b/a Q
Korean Steakhouse and YEN PO LIU,**

Defendants.

Civil Action No. 1:21-cv-02217-SCJ

**PLAINTIFF'S FIRST CONTINUING REQUESTS FOR PRODUCTION OF DOCUMENTS TO
DEFENDANT YPL ENTERPRISE, LLC d/b/a Q KOREAN STEAKHOUSE**

Plaintiffs, by and through the undersigned counsel and pursuant to Fed. R. Civ. P. 34, requests that Defendant YPL Enterprise, LLC, produce for inspection and copying within the time allowed under the Federal Rules of Civil Procedure, the following Documents:

Introduction

1. If privilege (including work product) is claimed as to any Document otherwise covered by this request for production, Plaintiff requests that Defendant provide sufficient information for the Court to determine the

validity of that claim including the specific privilege claimed, the author, recipient, date and general substance of that Document.

2. This request for production seeks inspection and copying of Documents in the possession of Defendant, including originals, drafts or Documents with handwritten notations, unless otherwise specifically stated.
3. If Defendant seek a protective Order or Confidentiality Order before responding, please notify undersigned counsel as soon as possible and then provide undersigned counsel with a draft prior to the due date of the responses.
4. Each of the following requests is continuing in nature so as to require You to file supplemental responses in accordance with Fed. R. Civ. P. 26(e).
5. All responsive Document(s) must be produced in the manner and form in which they are normally kept by Defendant in the course of conducting business and should be marked or otherwise organized so as to be easily ascertainable by number which of the following requests the Document(s) are being produced in response to.
6. If any Document(s) request to be produced was, but is no longer, in existence, state whether it is:
 - a. Missing or lost;

- b. Destroyed;
- c. Transferred voluntarily or involuntarily to others, and if so, to whom;
- or
- d. Otherwise disposed of, and in each instance, explain the circumstance surrounding an authorization for such disposition, and state the approximate date thereof.

Definitions

- 1. The term **Plaintiffs** means Jovi A. Fortuno, Michael J. Lambert, and Heidi M. Parsons, and includes Plaintiffs' agents, representatives or attorneys.
- 2. The term **Defendant, Company, You or Your** means YPL Enterprise, LLC, as well as any other related entities, and includes Your agents, representatives and attorneys.
- 3. The term **Document or Documents** means any written, recorded, filmed or graphic matter, whether produced or reproduced in paper, cards, tapes, film, electronic facsimile, computer storage device, or other media, including but not limited to, memoranda, notes, minutes, records, photographs, electronic mails ("e-mails"), correspondence, telegrams, diaries, bookkeeping entries, financial statements, tax returns, checks, check stubs, reports, studies, charts, graphs, statements, notebooks, handwritten notes, applications, agreements,

books, pamphlets, periodicals, appointment calendars, notes, records and recordings of oral conversations, work papers, also including but not limited to originals and all copies which are different in any form from the original, whether by interlineations, receipt stamp, notations, indications of copies sent or received, or otherwise, and any other tangible compilation of information which can be obtained or translated, if necessary.

4. The terms **Communication** or **Communicate** means any transmission of thoughts, opinions, or information by speech, writing, or sign.
5. The term **Person** means any natural person, corporation, partnership, proprietorship, association, governmental entity, agency, group, organization, or group of persons.
6. Use of feminine pronouns shall be deemed to include the masculine and neuter and use of masculine pronouns shall be deemed to include the feminine and neuter.
7. Terms in the singular shall be deemed to include the plural and terms in the plural shall be deemed to include the singular.

Individual Requests for Production

1. Produce all pay records—including records of tips received and all tip pooling arrangements—for each of the Plaintiffs during the last 4 years.

2. Produce all records of credit card sales made by each of the Plaintiffs during the last 4 years.
3. Produce all records of fees, tip-outs, or other similar payments made by each of the Plaintiffs during the last 4 years.
4. Produce all records of credit-card processing fees taken out of Plaintiffs' tips or other pay during the last 4 years.
5. Produce all work/shift schedules, attendance sheets, sign-in and sign-out sheets, clock-in and clock-out sheets, payroll journals, ledgers, and all other Documents evidencing Plaintiffs' attendance or non-attendance at work or hours worked during the last 4 years.

Dated: October 18, 2021

**DELONG, CALDWELL, BRIDGERS,
FITZPATRICK & BENJAMIN, LLC**

101 Marietta Street, NW
Suite 2650
Atlanta, Georgia 30303
(404) 979-3150 Telephone
(404) 979-3170 Facsimile
benjamin@dcbflegal.com
matthew.herrington@dcbflegal.com

s/ Matthew W. Herrington

Mitchell D. Benjamin
Georgia Bar No. 049888
Matthew W. Herrington
Georgia Bar No. 275411

Counsel for Plaintiffs